

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DONTE HARRIS,

Petitioner,

-against-

UNITED STATES OF AMERICA,

Respondent.

23-CV-2228 (LTS)

TRANSFER ORDER

LAURA TAYLOR SWAIN, Chief United States District Judge:

Petitioner, who is currently incarcerated at FCI Schuylkill in Minersville, Pennsylvania, brings this *pro se* petition for a writ of *habeas corpus*, pursuant to 28 U.S.C. § 2241, seeking to challenge his detention.¹ For the following reasons, this petition is transferred to the United States District Court for the Middle District of Pennsylvania.

In order to entertain a *habeas corpus* petition under Section 2241, a court must have jurisdiction over the custodian. *See Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 494-95 (1973) (writ of *habeas corpus* does not act upon the prisoner who seek relief, but upon his or her custodian). Thus, the jurisdiction of a *habeas* petition challenging a petitioner's physical confinement generally lies in the district of his confinement. *Rumsfeld v. Padilla*, 542 U.S. 426, 442 (2004). Petitioner is currently detained at FCI Schuylkill, which is located in the judicial district of the United States District Court for Middle District of Pennsylvania.

Therefore, in the interest of justice, this Court transfers this petition to the Middle District of Pennsylvania. *See* 28 U.S.C. § 1406(a).

¹ Petitioner originally filed this petition as a letter in his criminal case. *See United States v. Henry (Harris)*, ECF 1:20-CR-0293-3, 138 (S.D.N.Y. Oct. 19, 2022). By memo endorsement dated March 15, 2023, Judge Lewis J. Liman determined that the relief Petitioner seeks is properly sought through a *habeas corpus* petition under Section 2241, and directed the Clerk of Court to open a new civil action under Section 2241 and to docket Petitioner's letter as a Section 2241 petition in the new action. (*See* ECF 1, at 4.)

The Clerk of Court is directed to transfer this action to the United States District Court for the Middle District of Pennsylvania. Whether Petitioner should be permitted to proceed further without payment of fees is a determination to be made by the transferee court. This order closes this case in the Southern District of New York.

The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

SO ORDERED.

Dated: March 23, 2023
New York, New York

/s/ Laura Taylor Swain

LAURA TAYLOR SWAIN
Chief United States District Judge